IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE P.SWAROOP REDDY

WRIT APPEAL No.105 OF 2007

Between:

Vepuri Sathyam

..... APPELLANT

AND

The Ex-Officio Executive Director,
I.M.L. Depot, A.P. Beverages Corporation Ltd.,
Wyra, Khammam District, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE P.SWAROOP REDDY

WRIT APPEAL No.105 OF 2007

O R D E R

(Per Sri Justice J.Chelameswar)

Aggrieved by order in W.P.No.26119 of 1995 dated 21.11.2006 the unsuccessful 1st respondent therein preferred this appeal.

The abovementioned writ petition came to be filed by the respondents 1 and 2 herein challenging the award of the Industrial Tribubnal-cum-Labour Court, Warangal, in I.D.No.58 of 1992, dated 25.10.1994. By the said award, the respondents herein (employer) were directed to reinstate the petitioners with continuity of service, but without back wages. Such a direction came to be passed on the ground that the services of the petitioners, who have worked 240 days continuously as daily wage casual workers could not be dispensed with without following the procedure established under the Industrial Disputes Act.

The learned single Judge by the order under appeal recorded a categoric finding that there is nothing on record to prove the fact that the appellant herein had put in 240 days of continuous service. The finding recorded by the learned single Judge reads as follows:

> **"As the primary burden to show that the first respondent has put in 240 days of continuous service lies on him and he has failed to discharge the said**

burden, the onus has not shifted to the petitioners to prove that the petitioner has not worked for 240 days in any calendar year. Even, then the two registers namely, Attendance Registers and Payment Registers, whose genuineness was not impeached by the first respondent, amply prove that the first respondent has not put in the required number of man days to attract Section 25-F of the Act."

The finding of fact recorded by the learned single Judge, with which we do not see any reason to interfere, if sustained, the appellant is obviously not entitled to the relief such as the one granted by the award in the abovementioned I.D.

In the circumstances, we do not see any merit in the appeal and the same is accordingly dismissed at the admission stage itself. There shall be no order as to costs.

JUSTICE J.CHELAMESWAR

JUSTICE P.SWAROOP REDDY

1ST FEBRUARY, 2007
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
P.SWAROOP REDDY

WRIT APPEAL No.105 OF 2007
(Per Sri Justice J.Chelameswar)

1ST FEBRUARY, 2007